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March 23, 2012

BY ECF and REGULAR MAIL

AUSA Carter Burwell  
United States Attorney's Office  
271 Cadman Plaza East  
Brooklyn, New York 11201

Re: United States v. Ronald Herron  
10 Cr 615 (S-6) (NGG)

Dear Mr. Burwell:

Together with Richard Jaspar, I am court appointed counsel representing Ronald Herron in the above-referenced case. I write seeking discovery in accordance with Rule 16 of the Federal Rules of Criminal Procedure, Title 9 of the United States Attorney Manual, and the constitutional requirements set forth in Brady v. Maryland, 373 U.S. 83 (1963), United States v. Agurs, 427 U.S. 97 (1976), and Giles v. Maryland, 386 U.S. 66 (1967).<sup>1</sup>

Taking into account the vital importance not only for trial preparation, but also for preparation of a mitigation defense, the following information is requested:

1. Police Investigation. Any and all documents and information relating to the New York City Police Department investigation of the Kings County murders of Frederick Brooks, Richard Russo, and Victor Zapata, including but not limited to, the entire contents of the official NYPD detectives' files, on-line

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Given the posture of this matter, I note that the United States Supreme Court has repeatedly stressed the need for "heightened reliability" and conformance with procedural safeguards in the fact-finding process, sentencing procedures, and constitutional obligations of the government given the uniqueness and irrevocability of the penalty in capital prosecutions. See, Ford v. Wainwright, 477 U.S. 399 (1986); Gardner v. Florida, 430 U.S. 349 (1977); Woodson v. N.C., 482 U.S. 280 (1976); and Furman v. Georgia, 408 U.S. 238 (1972).

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booking sheets, complaint reports, crime scene reports, crime scene canvass reports, DD-5s, defendant's statements, witness statements, photographs, tapes, and notes.

2. Identification Evidence: State whether or not during the investigation of the three murders charged in the indictment, the attempted murders of John Does 1, 3, and 4, and the robbery of John Doe 2, a photograph of Ronald Herron, or that of any other person, was displayed to anyone for the purpose of having that individual make or attempt to make an identification. If so, provide the date(s), time(s) and place(s) of said showing, together with the name(s) of the person(s) present at said showing, and provide counsel with copies of the pictures shown, as well as the other pictures displayed if this was a photo array procedure, and state whether or not the defendant's photograph was identified.

3. Witnesses: The names, addresses, and dates of birth of persons whom the prosecution -- including any agent or representative of the prosecution -- believes to have relevant information regarding the three murders with which the defendant is charged in the indictment, the attempted murders of John Does 1, 3, and 4, and the robbery of John Doe 2, but whom the government does not intend to call as a witness at trial, along with the statements of any such persons.

4. Police Witnesses: Names, shield numbers, and commands of all police officers or federal agents who participated in the investigations of the three murders with which the defendant is charged in the indictment, the attempted murders of John Does 1, 3, and 4, and the robbery of John Doe 2.

5. Crime Scene Reports: Any and all police crime scene reports, diagrams, photographs, and videotapes made in connection with the three murders with which the defendant is charged in the indictment, the attempted murders of John Does 1, 3, and 4, and the robbery of John Doe 2.

6. 911 Calls: All 911 tapes and sprint reports in the possession, custody, or control of the government in connection with the three murders with which the defendant is charged in the indictment, the attempted murders of John Does 1, 3, and 4, and the robbery of John Doe 2.

7. Autopsy and other Medical Records: All medical records, hospital records, medical examiner records and reports, autopsy reports, coroner's reports and medical tape recordings relevant to



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the three murders with which the defendant is charged in the indictment, the attempted murders of John Does 1, 3, and 4, and the robbery of John Doe 2.

8. Ambulance Reports: All EMS, ESU, Ambulance/FDNY reports relevant to the three murders with which the defendant is charged in the indictment; the attempted murders of John Does 1, 3, and 4; and the robbery of John Doe 2 charged in Count 9.

9. Defendant's Role: Any and all evidence and/or information within the possession, custody or control of the government which reflects, refers, or relates to the role of the defendant in the three murders with which he is charged in the indictment.<sup>2</sup>

10. Eyewitnesses: Any and all documents containing eyewitness statements with respect to the three murders with which the defendant is charged in the indictment.

11. Defendant's Statements: Pursuant to Fed. R. Crim. P. 16(a)(1), with respect to each and every crime charged in the indictment, the defendant requests disclosure of any written or recorded statement(s) made by him which the government intends to offer in evidence at trial; any response by the defendant to interrogation; the substance of any oral statements which the government intends to introduce at trial; and any written summaries of the defendant's oral statements contained in the handwritten notes of any government agent; any response to any Miranda warnings which may have been given to the defendant; and any other statements by the defendant that are discoverable pursuant to Fed. R. Crim. P. 16(a)(1).

12. Electronic Recordings: Any and all electronic recordings that contain the voice of the defendant, and/or alleged co-conspirators that are electronically recorded, along with any all court orders, affidavits, updates, transcripts, logs, summaries, and progress reports relating to any such recordings.

13. Evidence of Uncharged Acts or Wrongs: If the government intends to offer evidence of crimes, wrongs, or acts not charged in

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the indictment pursuant to Federal Rule of Evidence 404(b), or any other statute, rule, or legal principle, defendant demands notice of such crimes, wrongs, or acts so that fair and appropriate investigation of such matters may be conducted by the defense.

14. Search Warrants: Defendant demands true copies of any and all search warrants, supporting affidavits, and exhibits, and any inventories of items seized with respect to any relevant police investigation in this matter, including such materials for automobiles, containers, or any other locations belonging to or attributed to Ronald Herron, and with respect to any other location which yielded evidence the government will offer against the defendant at trial during the time period January 1998 through the present.

15. Reports of Scientific Tests or Examinations: Pursuant to Fed. R. Crim. P. 16(a)(1)(F), defendant requests the reports of all tests and examinations conducted upon the evidence in this case. Such evidence should include but not be limited to fingerprints, ballistics, serology, DNA, handwriting exemplars, tool markings, chemical testing, object identification, identity identification and voice identifications.

16. Experts: Pursuant to Fed. R. Crim. P. 16(a)(1)(G), the defendant demands disclosure of the identities, qualifications, and testimony of any expert witness the government intends to call at trial.

17. Audiotape / Videotape Evidence: Defendant demands production of any audiotape or videotape evidence which consists of any kind of surveillance of the defendant, any co-conspirator (whether arrested or not), any co-defendant, or any informant who will offer evidence against the defendant, and the date, time, and circumstances of the making of the recording.

18. Audiotape Evidence of Ronald Herron's Voice: If the government intends to offer any evidence which consists of the voice of the defendant on tape, defendant demands a true copy of any such evidence, and disclosure of the date, time and circumstances of the recording of such evidence.

19. Brady/Giglio Material: The defendant requests all documents, statements, agents' reports, and tangible evidence favorable to the defendant on the issue of guilt, and/or which affects the credibility of the government's case and requests, pursuant to Giglio v. United States, 405 U.S. 150 (1972), all



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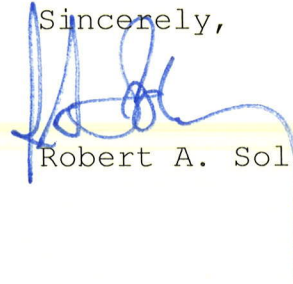
promises, express or implied, made to any government witness in exchange for their testimony, and all other information which could arguably be used for the impeachment of any such government witness.

20. Tangible Objects: The defendant requests, pursuant to Fed. R. Crim. P. 16(a)(1)(E), the opportunity to inspect and copy as well as test, all alleged contraband, photographs, books, papers, buildings, automobiles, or places, which are (i) material to the defense; (ii) will be admitted on the government's case-in-chief, or (iii) were obtained from or belong to the defendant.

21. Relevant Certification Facts: The defense seeks disclosure of all underlying facts relevant and material to the certification issues pending before the Attorney General.

Thank you.

Sincerely,



Robert A. Soloway

RAS/sc